

## STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 27, 2020

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PETITION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2019-00154

For approval of a plan for electric distribution grid transformation projects pursuant to § 56-585.1 A 6 of the Code of Virginia, and for approval of an addition to the terms and conditions applicable to electric service

ORDER ON RECONSIDERATION

On September 30, 2019, Virginia Electric and Power Company ("Dominion" or "Company") filed a petition with the State Corporation Commission ("Commission") for approval of a plan for electric distribution grid transformation projects ("Petition") pursuant to § 56-585.1 A 6 ("Section A 6") of the Code of Virginia ("Code"). Specifically, the Company is requesting approval of additional investments over the first three years of its ten-year grid transformation plan ("Plan"). The Company refers to these additional proposed investments as "Phase IB" of the Plan.<sup>1</sup>

On March 26, 2020, the Commission issued a Final Order in this docket. On April 14, 2020, the Company filed a Petition for Reconsideration and Clarification ("Petition for Reconsideration"). On April 15, 2020, the Commission issued an Order Granting Reconsideration that continued the Commission's jurisdiction over this matter for the purpose of considering the Petition for Reconsideration, and that suspended the Final Order pending the Commission's reconsideration thereof.

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<sup>1</sup> Exhibit ("Ex.") 2 (Petition) at 5-6.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Petition for Reconsideration is denied.

In this proceeding, the Commission exercised legislative discretion explicitly delegated to it by the General Assembly. The Commission exercised that discretion when it approved in part, and denied in part, Dominion's proposed Plan. The Commission possesses the authority – and the obligation – to apply its judgment in this case. Contrary to Dominion's characterizations of the evidence and the Final Order, there is support in the record for how the Commission exercised its judgment both when it agreed, and when it *disagreed*, with that of the Company.

Dominion has also not established that the Commission's denials were in any manner based on a mistake of law. The Company's accusations that the Commission improperly considered matters outside of the record in exercising its discretion are categorically incorrect; the Commission exercised its delegated discretion on the instant proposals based on the specific plans and costs presented in this proceeding. Further, the Company's suggestion that any denial by the Commission is necessarily contrary to legislative goals and mandates, and thus a mistake of law, is likewise incorrect; Dominion has not established that any of the Commission's denials herein violate any express limitation placed by the General Assembly on the Commission's discretion for purposes of the instant case.<sup>2</sup>

The remainder of this Order on Reconsideration addresses the specific requests in the Petition for Reconsideration.

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<sup>2</sup> Dominion also improperly cites to statutory law that is not yet effective; this Order on Reconsideration only speaks to the current law of the Commonwealth applicable to the instant case.

## Request for Reconsideration

The Petition for Reconsideration requests reconsideration of the Final Order as to (i) advanced metering infrastructure ("AMI"), and (ii) the self-healing grid, including related telecommunications.<sup>3</sup>

### *Advanced Metering Infrastructure*

First, as to AMI, the Commission found that under Section A 6, Dominion's plan for this project, and the significant projected costs associated therewith (total 10-year cost: \$752.5 million; Phase IB: \$303.8 million),<sup>4</sup> are not reasonable and prudent. Such finding is permitted by statute and supported by the record. For example, the Company claims millions of dollars of benefits from programs that will be enabled by AMI (including time-of-use ("TOU") rates, peak time rebates and a prepay program), for which the Company is not even seeking approval in this proceeding.<sup>5</sup> The alleged benefits Dominion claims are not based on a specific program design for those programs, but on broad averages from experiences in other states.<sup>6</sup> Without more, the Commission found evidence of these benefit estimates speculative and uncertain. Similarly, while the Company wants approval to fully deploy and incur the costs of AMI now, and for the

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<sup>3</sup> Petition for Reconsideration at 1. The Company also seeks reconsideration of the proposed proactive replacement of service transformers program should the Commission grant reconsideration of its decision on AMI. *Id.* at 2, 27-28. The Company does not seek reconsideration of the other components of the Plan that the Commission denied in this proceeding, including advanced analytics, an enterprise asset management system, and proactive substation transformer replacement. *Id.* at 2.

<sup>4</sup> Ex. 27 (Myers) at Table 4 (Revised) (including financing costs).

<sup>5</sup> *See, e.g.*, Ex. 3 (Baine Direct) at 15.

<sup>6</sup> *See, e.g.*, Tr. 174 ("what we modeled was really [] minimum benefits for these types of [TOU] programs. *We didn't actually do the program design.*") (emphasis added); Tr. 180-181; Tr. 204 ("We made a forecast of what [the peak time rebate] *could* look like and what the expected benefits *might* be.") (emphasis added); Tr. 563-64 (For the projected TOU energy reduction, "we picked something right in the middle at about 2.5"); Ex. 30.

Commission to consider the purported future benefits of these programs, the Company does not plan to implement these programs for up to seven years, asking the Commission to rely on its generalized commitments.<sup>7</sup> The Commission will simply not commit customers to pay for such an expensive investment based on this type of speculative evidence of future benefits that will not begin to accrue for many years, if at all.

As set forth in detail in the Final Order, the Commission is also concerned about the lack of a fully developed TOU rate design proposal in connection with the Company's proposed deployment of AMI. The record shows that the Company conducted dynamic pricing pilots approximately ten years ago to gather needed information to develop such a comprehensive rate design.<sup>8</sup> The record further shows the Company recently sought approval of an additional experiment in December 2019, in response in part to recently enacted legislation by the General Assembly.<sup>9</sup> The record in this proceeding, however, is devoid of a compelling reason for the Company's delay in pursuing additional TOU experiments before now, if it believed those additional experiments were necessary to support full deployment of the type of comprehensive TOU rate design necessary to maximize the potential value of AMI from rate optionality.

Thus, contrary to the Company's allegations, the Commission did not find that Dominion failed to present evidence in support of its proposals, nor must the Commission have simply failed to consider such evidence in order to deny the Company's request. Rather, the

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<sup>7</sup> Ex. 31. The peak time rebate and prepay program, for example, are not planned until year 7 (2026) of the Plan. Tr. 719. Company witness Frost testified, for example, that "we . . . expect to do the peak-time rebate." Tr. 617.

<sup>8</sup> *See, e.g.*, Tr. 263-266.

<sup>9</sup> *See, e.g.*, Petition for Reconsideration at 5-6.

Commission weighed the various (and at times conflicting)<sup>10</sup> evidence and arguments and, in exercising its discretion, found that the potential benefits were too speculative and uncertain for the Commission to choose to approve such a large expenditure at this time, the large costs of which impact Dominion's customers.<sup>11</sup> Again, contrary to Dominion's claims, this is not error; it is the Commission reaching a different conclusion than the Company on a matter that the General Assembly delegated to the Commission.

Furthermore, Dominion's allegation<sup>12</sup> that the Commission must have relied upon evidence outside this record in order to deny the Company's requested spending herein similarly mischaracterizes the Final Order. The Commission's reference to prior cases (including references to evidence and findings in prior orders related to grid modernization proposals), of background on grid modernization and what came before, is nothing more nor less than a recounting of pertinent case history on this topic. In the first grid modernization proposal proceeding, the Commission found that Dominion had failed to offer sufficient compelling

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<sup>10</sup> Indeed, Dominion's own assertions in the Petition for Reconsideration appear at times contradictory. For example, the Petition for Reconsideration repeatedly asserts that "system-wide" TOU rates are available today. *See, e.g.*, Petition for Reconsideration at 4, 6, 7, 10. Yet these older TOU schedules do not require, much less maximize the potential and justify the large costs of, a full roll-out of AMI meters, and there is no evidence in this record that these older schedules are part of any imminent and comprehensive plan to maximize the benefits of its very costly AMI proposal made herein. In fact, the Company now asks the Commission to take judicial notice of these older schedules, presumably because they have not previously been raised as part of this record. The Company's newfound reliance on these existing "system-wide" rates also stands in stark contrast to the Company's repeated assertions that a new TOU pilot is necessary to gather information essential to design a "modern-day system-wide TOU rate" that leverages AMI, and the Company's repeated statements that it "fully *intends* to offer TOU rates that leverage AMI." Petition for Reconsideration at 10, 15 (emphasis added). Further in this regard, the record reflects that the Company did not model TOU rates to begin enrollment system-wide until 2025. Ex. 31.

<sup>11</sup> "The Commission is entitled to interpret the conflicting evidence and to decide the weight to afford it." *City of Alexandria v. State Corp. Comm'n*, 296 Va. 79, 102 (2018) (citing *Board of Supervisors of Loudoun County*, 292 Va. at 458) (internal quotation marks omitted).

<sup>12</sup> *See, e.g.*, Petition for Reconsideration at 15-17.

evidence for the Commission to approve its requested AMI expenditures,<sup>13</sup> but, as Dominion recognizes in its Petition for Reconsideration,<sup>14</sup> the Commission made its rejection in the first proceeding without prejudice, thus giving Dominion the opportunity, in effect, to try again with a better second proposal for AMI. Dominion did offer a second proposal in the instant proceeding. Pointing out parallels between *this* proceeding and the *first* proceeding, leading to similar conclusions on AMI in *this* proceeding that we reached in the *first* proceeding, as well articulated by a witness in the first proceeding, is not, as Dominion alleges, equivalent to importing *evidence* from the first proceeding into this one and then relying on it improperly.<sup>15</sup> It is simply recognizing the pertinent history showing that, despite being invited to offer a second proposal, the Commission has concluded in *both* proceedings that the alleged benefits remain too speculative and uncertain for the Commission to choose to approve such a large expenditure at this time. The Commission's decision in this case is based on the instant record; the requested reconsideration of the Company's AMI proposal is denied.

*Self-Healing Grid and Related Elements*

Second, with respect to the self-healing grid proposal,<sup>16</sup> Dominion asserts that the Commission denied this proposed investment because it "is not targeted at customers with below average reliability."<sup>17</sup> This once again mischaracterizes the Commission's decision. As stated in

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<sup>13</sup> See, e.g., *Petition of Virginia Electric and Power Company, For approval of a plan for electric distribution grid transformation projects pursuant to § 56-585.1 A 6 of the Code of Virginia*, Case No. PUR-2018-00100, Doc. Con. Cen. No. 190130074, Final Order at 7-9, 26 (Jan. 17, 2019).

<sup>14</sup> See, e.g., Petition for Reconsideration at 15.

<sup>15</sup> See, e.g., *id.* at 15-17.

<sup>16</sup> The self-healing grid proposal is also referred to as fault location, isolation, and service restoration, or FLISR.

<sup>17</sup> Petition for Reconsideration at 21.

the Final Order, the self-healing grid and related investments "would have a Phase IB lifetime revenue requirement of approximately \$241.5 million and represent the largest component (almost 30 percent) of the Company's proposed Phase IB spending."<sup>18</sup> At this significant cost, the Company would install the self-healing grid on mainfeeders serving 88,000, or just 3.5% of the Company's 2.5 million Virginia customers.<sup>19</sup> Contrary to the Company's assertion, the Commission did not deny the self-healing grid proposal solely because it is not targeted at customers with below average reliability. Rather, the Commission weighed all the evidence, with respect to the self-healing grid proposal, including the significant cost, and determined that:

The Company's self-healing grid proposal is expensive and sweeping. No respondent or Staff supported it. The Company's justification for this proposed investment is to improve customer reliability. Similarly, the Company's cost-benefit analysis shows that the primary benefit of this proposal is improved reliability. Unlike the Company's mainfeeder hardening proposal, however, the self-healing component is not targeted at customers with below average reliability. Rather, the Company states it is targeting mainfeeders with the largest number of customers. The Commission finds that the Company has not sufficiently established the need for this level of investment to improve overall system reliability, and we will not commit customers to pay for such an expensive investment based on this record. In sum, the Commission finds that the proposed self-healing grid and related investments are not reasonable and prudent.<sup>20</sup>

Based on all the evidence developed in this record, the Commission simply does not find that such an expensive investment is reasonable and prudent.

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<sup>18</sup> Final Order at 21-22.

<sup>19</sup> *Id.* at 22. Over ten years, the lifetime revenue requirement of this group of investments would be approximately \$2.1 billion, representing approximately 30 percent of the costs of the ten-year Plan. *Id.*

<sup>20</sup> *Id.* at 22-23 (internal footnotes omitted).

In connection with its Petition for Reconsideration, Dominion also asserts that the self-healing grid is specifically targeted at customers with below average reliability.<sup>21</sup> This assertion is inconsistent with the Company's previous assertions in this case. The record shows that the feeders selected for the self-healing grid proposal were targeted because they have the largest populations of customers, as stated by the Commission in the Final Order.<sup>22</sup> For example:

- Company witness Wright testified that with the self-healing grid, "[t]he Company is proposing to target feeders that have the largest number of customers and most critical services affected when mainfeeder outages occur."<sup>23</sup>
- When asked if the self-healing grid population has "higher-than-average outages," Company witness Wright responded "[s]o not FLISR, not the self-healing grid population. This is where we have large populations of customers . . ." <sup>24</sup>
- Company witness Baine testified that "the mainfeeder hardening projects focus on the worst of the worst with a new solution. And the self-healing grid targets large number[s] of customers and most critical services when outages do occur."<sup>25</sup>

Nor does the Petition for Reconsideration cite a single instance in the record where a Company witness stated that the self-healing grid proposal targets customers with below-average service reliability.

The Company's overall ten-year plan for the self-healing grid also supports the Commission's statement that self-healing grid does not target customers with below-average

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<sup>21</sup> Petition for Reconsideration at 21-22 (citing the Company's evidence that the customers who are expected to receive the self-healing grid during Phase IB currently experience 200 average outage minutes, which is more than the system average of 127 minutes).

<sup>22</sup> Final Order at 22.

<sup>23</sup> Ex. 9 (Wright Direct) at 8.

<sup>24</sup> Tr. 250.

<sup>25</sup> Tr. 532-33.



reliability. The record shows that over ten years, the Company plans to deploy the self-healing grid to over two million customers, which is approximately 75% of its customers.<sup>26</sup> Based on the Company's evidence, those over two million customers currently experience 126 minutes of outage each year on average, which is one minute less than the system average of 127 minutes.<sup>27</sup>

In sum, the Commission disagrees with the Company's characterization of its decision with respect to the self-healing grid. The Commission fully weighed all the evidence and determined that this proposed investment is not reasonable and prudent. Notwithstanding, the Commission's statement that the self-healing grid component is not targeted at customers with below average reliability is fully supported by the record in this case. The requested reconsideration of the Company's self-healing grid proposal and related investments is denied.

#### Request for Clarification

##### *Footnote 20*

The Company seeks clarification of footnote 20 to the Final Order.<sup>28</sup> Specifically, the Company sets forth its lengthy interpretation of several statutory provisions including Code §§ 56-234 A, 56-234 B, 56-585.1:1 and 56-585.1 and requests "clarity on Footnote 20 to the

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<sup>26</sup> Ex. 9 (Wright Direct) at 7-8, Schedule 2.

<sup>27</sup> *Id.* at Schedule 2.

<sup>28</sup> Footnote 20 (Final Order at 8) states as follows:

A comprehensive proposal to offer TOU and related rate designs to all of Dominion's customers - either as a voluntary (opt-in) or as the default (opt-out) tariff - could be accomplished in conjunction with a base rate case in which rate design issues can be comprehensively addressed. Under current statutes, however, it is unclear when Dominion would be required to submit to a full base rate case. An earnings review is scheduled for 2021; however, it is not known at this time whether that earnings review will require a full base rate case. There is also an opportunity during a Triennial Review for revenue neutral changes to rate design in the absence of a full base rate case, but such rate design would be limited to a revenue neutral TOU proposal. *See, e.g.*, Consumer Counsel's Post-Hearing Brief at 16; Staff's Post-Hearing Brief at 6-7.

extent it conflicts with this interpretation."<sup>29</sup> The Commission is of the opinion that footnote 20 to the Final Order speaks for itself, that specific implementation of the statutes cited by Dominion should occur on a case-by-case basis in accordance with the particular circumstances attendant thereto, that footnote 20 does not include any findings of law or fact upon which the Commission's findings are dependent, and that, accordingly, no further clarification is required.

*Promotional Allowance Rules*

The Company also seeks clarification of the Final Order as it relates to the Commission's Promotional Allowance Rules.<sup>30</sup> The Company states that it noted in its Petition that "arguably, the rebates proposed as part of the [Smart Charging] Pilot Program meet the criteria set forth in the Promotional Allowance Rules."<sup>31</sup> "If deemed necessary by the Commission ... the Company sought waiver of the Promotional Allowance Rules for the rebates provided through the Pilot Program under Rule 50 of the Promotional Allowance Rules."<sup>32</sup> The Commission is of the opinion and finds that the Final Order contains all necessary approvals for the Smart Charging Pilot Program, and that no further clarification is required.

Accordingly, IT IS ORDERED THAT:

- (1) The Petition for Reconsideration is denied.
- (2) The Final Order is no longer suspended.
- (3) This case is dismissed.

Commissioner Patricia L. West participated in this matter.

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<sup>29</sup> Petition for Reconsideration at 31.

<sup>30</sup> *Id.* at 31-33; 20 VAC 5-303-10 *et seq.*

<sup>31</sup> Petition for Reconsideration at 32.

<sup>32</sup> *Id.*; 20 VAC 5-303-50.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.